IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6084 of 2005

Between:

"Ananda Aqua Exports Pvt.Ltd., D.No.2-5-1, Sivaraopet, Bheemavaram, West Godavari District rep., by its Director Uddaraju Jogi Ananda Varma, s/o U.K.Viswanadha Raju,

..... PETITIONER

AND

1 The Govt. of A.P., rep., by its Prl.Secretary, Revenue Department, Secretariat Buildings,
Hyderabad-4.
2 The District Collector, E.G.District, Kakinada-533 001.
3 The Mandal Revenue Officer, Katrenikona Mandal, E.G.District-533 212.
4 The Panchayat Secretary, Brahma Samedhyam Village, Katrenikona Mandal, E.G.District-533 212.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari, declaring that the issue of notice dt.17-2-05 issued in Form-I by the 3rd respondent in his Ref.No.A/11/2004, the non granting of any further time for offering explanation, and the issuance of the order dt.13-3-2005 by the 3rd respondent in the same reference cultching at the provisions of the A.P.Assigned Lands (Prohibition of Transfer) Act, 1977 in the circumstances stated in the Writ-Affidavit are beyond the competency and jurisdiction of the Mandal Revenue Officer, Katrenikona, exercising powers vested in her U/s.3(1) and 4(1) of the A.P.Assigned Lands (Prohibition of transfer) Act, 1977 and to quash the said notice and the order as null, void and in operative; and consequently, to restrain the respondents from taking possession of any of the lands which are whether specified or unspecified in the said notice and order under the guise of the impugned order dt.13-3-05.

Counsel for the Petitioner:MR.D.RAMALINGA SWAMY

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4 : Sri.D.Srinivas (SC for Panchayat)

The Court at the stage of admission made the following :

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ORDER:

This writ petition is filed aggrieved by the order dated 13.03.2005 passed by the third respondent-Mandal Revenue Officer, Katrenikona Mandal under Sub-section (1)(a) of Section 4 of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short “the Act”), thereby directing eviction of the petitioner from the lands in S.Nos.26,33,38 etc., of Brahmasamedhyam Village of Katrenikona Mandal.

It is not in dispute that a show cause notice dated 17.02.2005 was issued in Form-I under Sub-section (2) of Section 3 of the Act, calling upon the petitioner to explain as to why he should not be evicted from the lands in question. On receipt of the same, the petitioner by letter dated 10-03-2005 requested the third respondent to grant further time for submitting the explanation. No such time was granted, but the impugned order was passed on the ground that the petitioner failed to submit any explanation. The said order dated 13-03-2005 is under challenge in this writ petition. Contending that, the third respondent passed the impugned order not only without affording reasonable opportunity to the petitioner to explain the allegations made in the show cause notice dated 17.02.2005 but also without application of mind to the facts of the case.

On a perusal of the impugned order I find force in the contentions of the petitioner. It is to be noted that in the show cause notice the survey numbers were mentioned as 16, 24, 27, 28, 33 etc., but in the impugned order different survey numbers have been mentioned. Apparently there appears to be some error in identification of the lands in question. Nothing has been placed before this Court by the respondents explaining the discrepancy in the description of the lands in question. That apart, admittedly the impugned order was passed without taking into consideration the version of the petitioners.

In the circumstances, I am of the view that the mater requires reconsideration and the interest of justice would be met if the respondents are directed to pass appropriate orders afresh after considering the explanation that may be submitted by the petitioner in response to the show cause notice dated 17.02.2005.

The writ petition is accordingly disposed of setting aside the impugned order dated 13.03.2005 and granting leave and liberty to the petitioner to submit appropriate explanation to the show cause notice dated 17.02.2005 within a period

of two weeks from today. If any such explanation is submitted, the respondents shall consider the same and pass appropriate orders

in accordance with law and communicate the same to the petitioner. No costs.

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23.03.2005

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To

1 The Principal Secretary, Revenue Department,
Govt. of A.P., Secretariat Buildings, Hyderabad-4.
2 The District Collector, E.G.District, Kakinada-533 001.
3 The Mandal Revenue Officer, Katrenikona Mandal,
E.G.District-533 212.
4 The Panchayat Secretary, Brahma Samedhyam Village,
Katrenikona Mandal, E.G.District-533 212.

5 Two C.Cs to the G.P. for Revenue, High Court Buildings,
Hyderabad (OUT).
6 2 CD copies